



within this period, stating at least one defect.

**I. General information**

1. All deliveries and services are subject to these terms and conditions as well as any separate contractual agreements. Deviating terms and conditions of purchase of the customer shall not become part of the contract even if the order is accepted. Those will be explicit rejected herewith.

In the absence of a special agreement, a contract is concluded with the supplier's written order confirmation.

2. The supplier reserves the right of ownership and copyright to samples, cost estimates, drawings and similar information. The Supplier reserves the property rights and copyrights to samples, cost estimates, drawings and similar information of a physical and non-physical nature - also in electronic form; they may not be made accessible to third parties. The Supplier undertakes to make information and documents designated as confidential by the Purchaser accessible to third parties only with the Purchaser's consent.

**II. Price and payment**

1. Unless otherwise agreed, prices are ex works including loading at the factory, but excluding packaging and unloading. Value added tax at the respective statutory rate shall be added to the prices.

2. In the absence of a special agreement, payment shall be made without any deduction á account of the supplier, namely:

1/3 down payment after receipt of the order confirmation,  
1/3 as soon as the customer has been informed that the main parts are ready for dispatch (notice of delivery),

the remaining amount within one month of the transfer of risk.

3. The purchaser shall only be entitled to withhold payments to the extent that his counterclaims are undisputed or have been recognised by declaratory judgement.

4. The customer shall only be entitled to offset counterclaims from other legal relationships to the extent that they are undisputed or have been recognised by declaratory judgement.

5. In the case of fees for rental (system) or use of licences (WaterExpert), payment is made immediately after invoicing or by SEPA direct debit on a regular monthly basis.

**III. Delivery time, delivery delay**

1. The delivery time is determined by the agreements between the contracting parties. Compliance with the delivery time by the Supplier is subject to the condition that all commercial and technical questions between the contracting parties have been clarified and the Purchaser has fulfilled all obligations incumbent upon it, such as the provision of the necessary official certificates or authorisations or the payment of a deposit. If this is not the case, the delivery time shall be extended accordingly. This shall not apply if the Supplier is responsible for the delay.

2. Compliance with the delivery time is subject to correct and punctual delivery to us. The supplier shall inform the customer as soon as possible if delays become apparent.

3. The delivery period shall be deemed to have been met if the delivery item has left the supplier's works or readiness for dispatch has been notified by the time it expires. If acceptance is to take place, the acceptance date shall be decisive - except in the case of justified refusal of acceptance - or alternatively the notification of readiness for acceptance.

4. If dispatch or acceptance of the delivery item is delayed for reasons for which the customer is responsible, the customer shall be charged the costs incurred as a result of the delay, starting one month after notification of readiness for dispatch or acceptance.

5. If non-compliance with the delivery time is due to force majeure, labour disputes or other events beyond the Supplier's control, the delivery time shall be extended accordingly. The Supplier shall inform the Purchaser of the beginning and end of such circumstances as soon as possible.

6. The Purchaser may withdraw from the contract without setting a deadline if the Supplier is finally unable to fulfil the entire performance before the transfer of risk. The same shall apply if the Supplier is unable to fulfil the contract. Otherwise, Section VII.2 shall apply. Further claims arising from delay in delivery shall be determined exclusively in accordance with Section VII.2 of these Terms and Conditions.

**IV. Transfer of risk, acceptance**

1. The risk shall pass to the customer when the delivery item has left the factory, even if partial deliveries are made or the supplier has assumed other services, e.g. shipping costs or delivery and installation. If acceptance is required, this shall be decisive for the transfer of risk. It must be carried out immediately on the acceptance date, alternatively after the supplier has notified the customer that the goods are ready for acceptance. The customer may not refuse acceptance in the event of a minor defect.

2. If dispatch or acceptance is delayed or does not take place as a result of circumstances for which the Supplier is not responsible, the risk shall pass to the Purchaser on the day of notification of readiness for dispatch or acceptance. The Supplier undertakes to take out the insurance policies requested by the Purchaser at the latter's expense.

3. Partial deliveries are permissible, insofar as reasonable for the customer.

4. The deemed acceptance is permissible. According to this, the delivery is deemed accepted even if the customer has set a reasonable deadline for acceptance after commissioning and the customer has not refused acceptance

**V. Retention of title**

1. The Supplier shall retain title to the delivery item until receipt of all payments - including for any additional ancillary services owed - under the delivery contract.

2. The supplier is entitled to insure the delivery item against theft, breakage, fire, water and other damage at the customer's expense, unless the customer has demonstrably taken out the insurance himself.

3. The customer may neither sell, pledge nor assign the delivery item as security. In the event of seizure, confiscation or other dispositions by third parties, he must inform the supplier immediately.

4. In the event of breach of contract by the customer, in particular in the event of default in payment, the supplier shall be entitled to take back the delivery item after issuing a reminder and the customer shall be obliged to surrender it.

5. Due to the retention of title, the supplier can only demand the return of the delivery item if he has cancelled the contract.

**VI. Claims for defects/ warranty**

The Supplier shall be liable for material defects and defects of title in the delivery to the exclusion of further claims - subject to Section VII - as follows:

Material defects

Insofar as the parties have agreed on a quality of the purchased item, objective requirements for the purchased item shall not apply in this respect.

1. All those parts which prove to be defective as a result of a circumstance prior to the transfer of risk shall be repaired or replaced free of defects at the discretion of the supplier. The discovery of such defects must be reported to the supplier immediately in writing. Replaced parts shall become the property of the supplier.

2. After consultation with the Supplier, the Purchaser shall give the Supplier the necessary time and opportunity to carry out all repairs and replacement deliveries which the Supplier deems necessary; otherwise the Supplier shall be released from liability for the resulting consequences. Only in urgent cases where operational safety is jeopardised or to prevent disproportionately large damage, in which case the Supplier must be notified immediately, shall the Purchaser have the right to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary expenses from the Supplier.

3. The supplier shall bear - insofar as the complaint proves to be justified - the direct costs of rectification or replacement delivery, including despatch. In addition, he shall bear any necessary installation and removal costs, insofar as this was the subject of the original performance, as well as the costs of any necessary provision of the necessary labour, including travel costs, insofar as this does not result in a disproportionate burden on the supplier.

4. Further claims shall be determined exclusively in accordance with Section VII. 2 of these Terms and Conditions.

5. No liability is accepted in the following cases in particular: Unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences - unless the supplier is responsible for them.

6. If the Purchaser or a third party carries out improper repairs, the Supplier shall not be liable for the resulting consequences. The same applies to changes made to the delivery item without the prior consent of the supplier.

Defects of title

7. If the use of the delivery item leads to an infringement of industrial property rights or copyrights in Germany, the Supplier shall, at its own expense, procure the right for the Purchaser to continue using the delivery item or modify the delivery item in a manner that is reasonable for the Purchaser so that the infringement of property rights no longer exists. If this is not possible under economically reasonable conditions or within a reasonable period of time, the customer shall be entitled to withdraw from the contract.

The supplier shall also be entitled to withdraw from the contract under the aforementioned conditions.

In addition, the Supplier shall indemnify the Purchaser against undisputed or legally established claims of the respective owners of the property rights.

8. Subject to Section VII.2, the obligations of the Supplier specified in Section VI.8 are conclusive in the event of an infringement of industrial property rights or copyrights.

They only exist if

- the customer informs the supplier immediately of any asserted infringements of industrial property rights or copyrights,
- the Purchaser supports the Supplier to a reasonable extent in the defence of the asserted claims or enables the Supplier to carry out the modification measures in accordance with Section VI. 8,
- the supplier reserves the right to all defence measures including out-of-court settlements,
- the defect of title is not based on an instruction of the customer and



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- the infringement was not caused by the fact that the customer modified the delivery item without authorisation or used it in a manner not in accordance with the contract.

Software deficiency

1. The licensor shall provide the customer with the software free of material defects and defects of title. Defects do not include functional impairments resulting from the hardware and software environment provided by the customer, incorrect operation, external defective data, computer network faults or other reasons originating from the customer's sphere of risk. In the event of defects, the customer shall be entitled to the statutory warranty rights in accordance with the following provisions.

2. The Licensor shall not assume any warranty for software that has been modified by the customer, unless the customer can prove that the modification is not the cause of the reported defect.

3. The Licensor shall provide warranty in the event of material defects by means of subsequent fulfilment, either by remedying the defect or by supplying a replacement, at the Licensor's discretion. Subsequent fulfilment may be effected in particular by providing a new version of the program or by the Licensor demonstrating ways of avoiding the effects of the defect. A new programme version must also be accepted by the customer if this leads to an acceptable adjustment effort for him.

**VII. Liability of the supplier, exclusion of liability**

1. If the delivery item cannot be used by the Purchaser in accordance with the contract due to a culpable breach of contractual obligations by the Supplier - in particular instructions for operation and maintenance of the delivery item - the provisions of Sections VI and VII.2 shall apply to the exclusion of further claims by the Purchaser.

2. The supplier shall only be liable for damage that has not occurred to the delivery item itself - for whatever legal reasons

- with intent,
- in the event of gross negligence on the part of the owner / executive bodies or senior employees,
- in the event of culpable injury to life, limb or health,
- in the case of defects which he has fraudulently concealed, as part of a guarantee commitment,
- in the event of defects in the delivery item, insofar as liability exists under the Product Liability Act for personal injury or property damage to privately used items.

In the event of culpable breach of material contractual obligations, the Supplier shall also be liable for gross negligence on the part of non-executive employees and for slight negligence, in the latter case limited to reasonably foreseeable damage typical of the contract. Liability for loss of profit or production downtime costs or damages is excluded. Further claims are excluded.

**VIII. Statute of limitations**

All claims of the customer - on whatever legal grounds - shall become time-barred after 12 months beginning with notice of delivery; this shall also apply to the limitation period for recourse claims in the supply chain pursuant to Section 445b (1) BGB. The suspension of the limitation period under Section 445b (2) BGB remains unaffected; it ends no later than five years after the date on which the supplier delivered the item to the seller. These provisions on the limitation period for recourse claims and the suspension of expiry shall not apply if the last contract in this supply chain is a purchase of consumer goods. The statutory periods shall apply to claims for damages in accordance with Section VII. 2 a-d and f. They shall also apply to defects in a building or to delivery items that have been used for a building in accordance with their normal use and have caused its defectiveness.

**IX. Software utilisation**

1. If software is included in the scope of delivery, the customer shall be granted a non-exclusive right to use the software supplied, including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited unless otherwise agreed.

The Purchaser may only reproduce, revise, translate or convert the software from the object code into the source code to the extent permitted by law (§§ 69 a ff. UrhG). The Purchaser undertakes not to remove manufacturer's details - in particular copyright notices - or to change them without the prior express consent of the Supplier.

All other rights to the software and the documentation, including copies, shall remain with the supplier or the software supplier. The granting of sub-licences is not permitted.

The software supplied by the Licensor (programme and manual) is protected by copyright. All rights to the software and to other documents provided in the context of the initiation and execution of the contract are the exclusive property of the licensor in the relationship between the contracting parties.

2. The Licensor may revoke the rights of use for good cause. Good cause shall be deemed to exist in particular if the customer is in default of payment of a substantial part of the remuneration or if the customer does not comply with the terms of use and does not immediately refrain from doing so even after a written warning with a threat of revocation by the

licensor. Upon revocation of the rights of use, the customer shall return the original software and existing copies and delete stored programmes. At the Licensor's request, the Customer shall provide written assurance of the surrender and deletion.

**X. Data protection and confidentiality**

1. The contracting parties undertake to keep confidential all business and trade secrets or information designated as confidential which they receive or become aware of from the other contracting party during the performance of the contract. The information and documents may not be made accessible to third parties not involved in the fulfilment of the contract. The contracting parties shall store and secure the contractual objects in such a way that misuse by third parties is unlikely.

2. Information and documents that are generally known and accessible at the time of disclosure or that were already known to the receiving contractual partner at the time of disclosure or that were later made accessible to him by third parties on a legitimate basis are not covered by the confidentiality obligation.

3. The customer expressly consents to the collection, processing and utilisation of personal data. The stored personal data will of course be treated confidentially by the Licensor. The collection, processing and utilisation of the customer's personal data is carried out in compliance with the German Federal Data Protection Act (BDSG) and the German Telemedia Act (TMG).

4. Personal information may also be used to provide information about products, marketing measures and other services with the express prior consent of the customer.

The customer has the right to revoke his consent at any time with effect for the future. In this case, the licensor is obliged to delete the customer's personal data immediately. In the case of ongoing contractual relationships, the deletion shall take place after the end of the contractual relationship.

**XI. Applicable law, place of jurisdiction**

1. All legal relationships between the Supplier and the Customer shall be governed exclusively by the law of the Federal Republic of Germany applicable to legal relationships between domestic parties. The rules of CSIS, UN- Kaufrecht are excluded.

2. The place of jurisdiction is the court responsible for the supplier's registered office, Darmstadt. However, the supplier is entitled to bring an action at the customer's headquarters.